

MISSOURI COURT OF APPEALS EASTERN DISTRICT

OPINION SUMMARY

DIVISION THREE

STATE OF MISSOURI,)	No. ED103341
)	
Respondent,)	Appeal from the Circuit Court
)	of the City of St. Louis
vs.)	
)	
DEON A. WILLIAMS,)	Honorable Timothy J. Wilson
)	
Appellant.)	Filed: November 1, 2016

Deon A. Williams (“Williams”) appeals the circuit court’s judgment convicting him of attempted forcible rape, two counts of sodomy in the first degree, two counts of attempted sodomy in the first degree, and two counts of incest, and sentencing him to eighteen years’ incarceration. Williams raises four points on appeal and seeks plain error review. In point one, Williams argues that the trial court erred in finding him guilty on Counts V (attempted sodomy), VI (attempt sodomy), and VII (incest) because the Substitute Information did not contain sufficient detail to put him on notice of the charges against him, which violated his right to due process. In points two and three, Williams argues that the trial court erred in admitting evidence of uncharged misconduct involving D.W. and Williams’ girlfriend. In point four, Williams argues that the trial court plainly erred in classifying him as a prior and persistent offender in the absence of sufficient evidence or findings of fact to support this classification.

JUDGMENT AFFIRMED AS MODIFIED.

DIVISION THREE HOLDS: We hold that: (1) the trial court did not plainly err in convicting Williams of Counts V, VI, and VII because the Substitute Information provided sufficient notice of the charges against Williams, and Williams suffered no actual prejudice that prevented him from preparing a defense or pleading former jeopardy in the event of acquittal; (2) the trial court did not plainly err because there is no evidence the trial court relied upon Williams’ prior uncharged misconduct in reaching its judgment; and (3) the trial court plainly erred by classifying Williams as a prior and persistent offender; however, we correct the clerical error without remanding the case, finding no prejudice because it did not affect Williams’ sentence. Accordingly, we order the July 9, 2015 Judgment and Sentence form corrected to reflect that Williams was not found to be a prior and persistent offender. Williams’ sentence of eighteen years’ incarceration is not otherwise amended or modified by this Opinion. We affirm the trial court’s judgment of conviction and sentence as modified.

Opinion by: Angela T. Quigless, P.J.

Robert G. Dowd, Jr., J, and Lisa Van Amburg, J., Concur.

Attorney for Appellant: Lisa M. Stroup

Attorneys for Respondent: Daniel N. McPherson

**THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN
PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE
QUOTED OR CITED.**